IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO. 15517 of 2004

Between:

Perumalla Narayana, S/o.Potanna,
Echoda Gram Panchayat, Echoda Mandal, Adilabad District.

..... PETITIONER

AND

1. The Government of Andhra Pradesh, rep.by its Principal Secretary, Panchayat Raj Department, Secretariat, Hyderabad.
2. The District Collector (Panchayat Wing), Adilabad.
3. The District Panchayat officer, Adilabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Certiorari calling for the records leading upto and inclusive of proceedings of the 2nd respondent bearing Proc.No.546/K4.Pts/04, dt.24-08-2004 and quash the same holding it to be arbitrary, illegal and violative of principles of natural justice and Articles 14 and 16 of the Constitution of India and pass order or further orders are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.S.SHARAT KUMAR

Counsel for the Respondents 1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEVELOPMENT.

The Court at the admissions stage made the following Order:

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO.15517 OF 2004

ORDER:

The petitioner was elected as the Sarpanch of Echoda Gram Panchayat in Echoda Mandal, Adilabad District in the elections held in August, 2001. Basing on an adverse news published in the Enadu Daily Newspaper, the second respondent asked the third respondent to conduct preliminary enquiry and submit report, and basing on the same, petitioner was served with a show-cause notice dated 09-08-2004 alleging misuse of powers in the capacity of Sarpanch by issuing illegal construction permission to one Smt.B.Rathnamala W/o.Narayana, R/o.Echoda in the Gram Panchayat in collusion with one Sri Quadir Ahmad, the then Junior Assistant of Gram Panahcyat, Echoda, without circulating the file from the office and acted beyond powers and that as to why suitable action should not be taken against the petitioner suspending him from the post of Sarpanch under Section 249(6) of Andhra Pradesh Panchayat Raj Act, 1994 (for short 'the Act'). The petitioner submitted his explanation on 20-08-2004 to the said show-cause notice, and accordingly, the second respondent by proceedings dated 24-08-2004, placed the petitioner under suspension for a period of three months under Section 249(6) of the Act. Aggrieved by the same, the petitioner has preferred this writ petition by way of lunch motion by making a mention before the 1st Court, when similar request was rejected by this Court. It is also noticed the petitioner simultaneously preferred an appeal/revision and writ petition questioning the order of the second respondent.

The Apex Court in **Bombay Metropolitan Region Development Authority v. Gokak Patel Volkart** held that where there is not only the existence of an alternative

remedy but the writ petitioner actually had availed of that remedy. When the petitioner's appeal before the statutory authority is pending, the writ petition should not have been entertained.

Since the petitioner had already availed an alternative remedy of preferring an appeal and when the same is pending before the 1st respondent, he is not entitled for the relief sought for. The petitioner has not even given sufficient time to the appellate/revisional authority for passing appropriate order for staying proceedings of the second respondent, and hastily, approached this Court by way of this writ petition. In view of the same, the 1st respondent, before whom the appeal is pending, shall consider the appeal as well as the stay petition and pass appropriate orders in the stay petition within a period of two weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

30-08-2004

Note:Office is directed to issue copy by tomorrow

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To

1. The Principal Secretary, Government of Andhra Pradesh, Panchayat Raj Department, Secretariat, Hyderabad.
2. The District Collector (Panchayat Wing), Adilabad.

3. The District Panchayat officer, Adilabad.

4. Two CCs to G.P. Panchayat Raj and Rural Development, A.P.High Court Buildings, Hyderabad (o.u.t)

5. Two CD copies